

CEMEX TPDES Permit No. WQ0002179000
June 30, 2010

June 30, 2010

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087
Via Facsimile 1-512-239-3311 and Hard Copy by Mail

2010 JUN 30 PM 3:47

CHIEF CLERKS OFFICE

Subject: TPDES Permit No. WQ0002179000; Application for Amendment by CEMEX

Dear Sir or Madam,

We appreciate the opportunity to voice our concerns about the major amendment/renewal to TPDES Permit No. WQ0002179000 as it relates to the discharge of storm water, wastewater and wash water by CEMEX into the Dry Comal Creek. We oppose the issuance of this amendment/renewal and request reconsideration of the Preliminary Decision. We request another public comment period, a public meeting, and a contested case hearing.

We reside at 6028 FM 482, New Braunfels, Texas, on approximately 72 acres that lie north of Farm-to-Market Road (FM) 482 and southwest of Krueger Canyon and Wald Road. We believe our property is about 1.5 to 1.9 miles away from CEMEX. Our property has been farmed and ranched by our family for over 100 years. As direct descendants, we continue the operations so that our agricultural heritage will be preserved. In fact, our land is "Designated Family Land Heritage Property", as pronounced by Governor Rick Perry when he served as Commissioner of the Texas Agriculture Department. The Dry Comal Creek runs through our property. Although CEMEX's proposed discharge points and outfall may lie downstream from us, we would be adversely affected, each and every day, due to our location and the negative stigma from having the Dry Comal Creek designated with points and outfalls for industrial wastewater and other discharges in the immediate vicinity. In the view of our family, the thought of having industrial discharge into a stream damages the entire stream, not just the points where the outfalls lie. This damaging reputation would hurt our property, our community and quality of life, and our efforts to preserve our heritage farm, wildlife, and environment. It would entice more waste and trash to be thrown into the creek bed, thus causing the Dry Comal Creek to become more of a drainage ditch and/or venue for dumping trash, litter, debris, and waste. We believe the pollution would spread from CEMEX's points of discharge to upstream and downstream areas of the Dry Comal Creek and its seep springs. Of particular note, please know that for years our family's source of water (for human and livestock consumption) comes from wells on our land, one of which is less than 100 feet away from the Dry Comal Creek. We are very concerned, that as the Dry Comal Creek becomes polluted from CEMEX and other operations, that our water supply will become contaminated. Other concerns, comments and questions include, but are not limited to, the following:

- o We do not agree that the unclassified receiving waters have limited aquatic life use for the Dry Comal Creek. It is our understanding that intermittent streams in this area have intermediate or high aquatic life uses. Suspended solids in the discharge might well degrade these uses, and degradation should not be allowed! Aquatic life has been

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present and observed in the Dry Comal Creek that runs through our land, so we believe there is also life in the proposed receiving waters. If there is none, this may be an indication of the degradation already taking place due to existing wastewater and storm water from industries and development in the area.

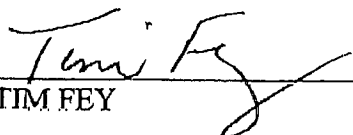
- o Due to the delicate ecosystem, caves, and natural springs in this area, we believe independent studies should be done on the Dry Comal Creek, particularly taking into consideration its seep springs. The surrounding wetlands and habitats should be studied, particularly as it serves as nesting areas for wildlife and endangered species.
- o With this area prone to flooding, it would seem that the stream reach could, at times, be farther in distance (i.e., would discharge into the Dry Comal Creek place the Comal River, Comal Springs, Guadalupe River, and the heart of New Braunfels at risk?)
- o This amended permit is only for CEMEX. The other quarries (Hanson Aggregates, Martin Marietta, Dean Word, Chemical Lime, L-Hoist) and other industrial operations have activities in or around the Dry Comal Creek watershed as well. We have concerns about the cumulative impact on the Dry Comal Creek, particularly when considering these other operations and also run-off from development along IH 35 and other roadways.
- o The trailhead of the Dry Comal Nature Trail is about 1.5 to 2 miles downstream from CEMEX. This trail is part of the City of New Braunfels Parks and Recreation Department. It is a hike and bike trail that begins at the Little League Ball Fields off of Loop 337. To our knowledge, this trail is the first mountain bike trail in the park system and features creek bottom habitat, wildlife viewing, and unique grasslands. Is this trail adequately protected from industrial discharge from CEMEX and other industries? See attached brochure.
- o The historical and cultural perspective of the Dry Comal Creek should be considered. FM 482 is part of the El Camino Real de los Tejas, a national historic trail. The El Camino Real is one of only 18 U.S. Historic Trails and is one of the oldest and most significant routes traversing Texas. A copy of the Congressional Act designating this trail is attached. The Dry Comal Creek, once known as the San Miguel, runs parallel to FM 482 and is believed to mark the path of the El Camino Real in this immediate area. It is our understanding that a scoping report was completed on this national trail and that a management plan (Federal and/or State) is underway. Have the efforts of the Federal and State government to protect, preserve, and promote this trail, of which the Dry Comal Creek is an integral part, been taken into account when analyzing the impacts of the proposed amended water permit? Will the damaging and disparaging image of industrial waste into the Dry Comal Creek thwart the efforts of promoting this National Historic Trail?

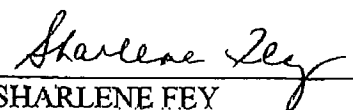
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Respectfully submitted,


TIM FEY


SHARLENE FEY

ADDRESS AND PHONE:
6028 FM 482, New Braunfels, TX 78132
830-609-0126 (home phone)
210-414-6597 (cell phone)
feyfam@att.net

Attachments

Ltr from Tim + Sharlene Fey, TPDES PERMIT No. WQ 0002179000

DRY COMAL NATURE TRAIL

Trail



PARKS AND RECREATION DEPARTMENT

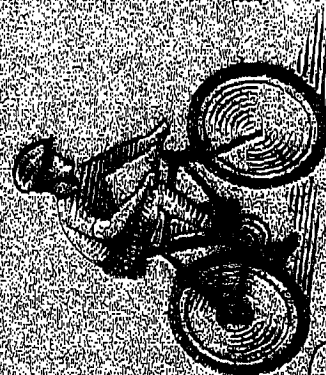
TOTAL TRAIL DISTANCE 2



Dry Comal Trail (Hike and Bike Only)

The Dry Comal Trail is located off of Loop 17 and the Dry Comal Creek surrounding the Little League Ball Fields. Get away from it all at our newest addition to the Parks and Recreation trails. The Dry Comal Trail is open to hike and bike traffic only. This is the first mountain bike trail in the park system and is expanding as we speak. We already have a 2.25 mile loop that is ready for the public to enjoy on foot or bikes. The Dry Comal Trails have the feel-aer feeling by giving you access to numerous types of habitats. You can start by entering a river bottom habitat which has unique wildlife of its own. Next you can stroll through a densely wooded area sighting white-tailed deer and other wildlife at every bend in the trail. Finally you may climb a rocky hill leading to a cedar glass-bird type habitat with prickly pear and mesquite trees.

Come see what trails have to offer.



ALWAYS
WEAR
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HELMET

RECREATION

RULES OF THE TRAIL

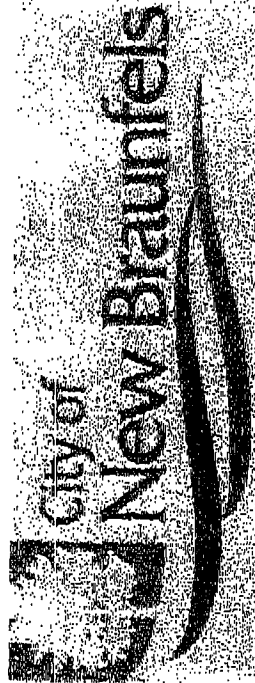
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- Respect private property.
- No motorized vehicles allowed.
- Pack it in, pack it out.
- All natural features are protected here.
- Please do not collect, disturb or injure wildflowers, rocks, plants or animals.
- Bikes must yield to pedestrians.
- Keep pets restrained on a leash at all times.

WILDLIFE VIEWING TIPS

- Stop, look, and listen. There is often more wildlife than seen at first.
- Use binoculars to view wildlife.
- Be careful. Wild animals are wild and unpredictable.
- Do not feed the wildlife. Nature provides the healthiest diet. Feeding animals can also cause them to lose their natural fear of humans and become more dangerous.
- Litter is lethal.
- Visit often and in different seasons.
- Wildlife changes during different times of the year.

HIKE & BIKE TIPS

- There are no restrooms, water fountains, facilities, etc. on the trail, so plan accordingly.
- Always wear your helmet when biking and carry an emergency repair kit.
- Recommended items: comfortable walking/hiking shoes, sunscreen, insect repellent, and water.
- Check the weather forecast before planning the hike.
- Be careful, the trail is made of natural materials. It is a nature trail, not a sidewalk.
- Know your skill level before trying to bike.



PARKS AND RECREATION DEPARTMENT

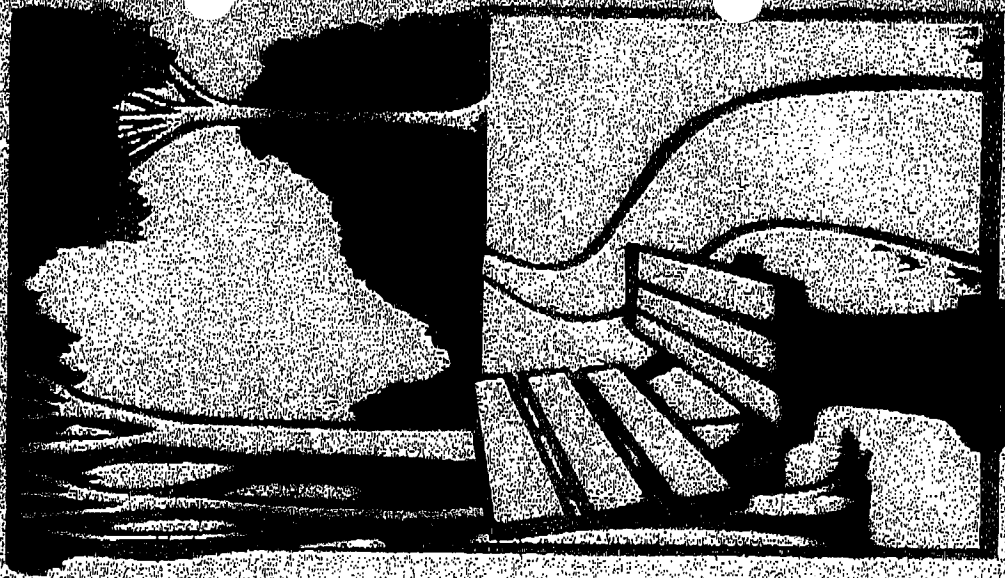
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78130

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Fax: 830-608-2162
Web Address:
www.nbtexas.org

DRY COMAL NATURE TRAIL GUIDE



PARKS AND RECREATION DEPARTMENT

Ltr from Tim + Stanlap TPDES PERMIT NO. WB0002179000

(5)

TPDES PERMIT NO. WQ0002179000
Letter from Tim + Shavene Fey

118 STAT. 1370

PUBLIC LAW 108-342—OCT. 18, 2004

Public Law 108-342
108th Congress

An Act

Oct. 18, 2004
[S. 2052]

To amend the National Trails System Act to designate El Camino Real de los
Tejas as a National Historic Trail.

El Camino Real
de los Tejas
National Historic
Trail Act.
Texas,
Louisiana,
Mexico.
16 USC 1241
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de los Tejas
National Historic Trail Act".

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL
HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C.
1244(a)) is amended by adding at the end the following:

"(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—El Camino Real de los Tejas (the Royal
Road to the Tejas) National Historic Trail, a combination of
historic routes (including the Old San Antonio Road) totaling
approximately 2,580 miles, extending from the Rio Grande
near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana,
as generally depicted on the map entitled 'El Camino Real
de los Tejas' contained in the report entitled 'National Historic
Trail Feasibility Study and Environmental Assessment: El
Camino Real de los Tejas, Texas-Louisiana', dated July 1998.

"(B) MAP.—A map generally depicting the trail shall be
on file and available for public inspection in the appropriate
offices of the National Park Service.

"(C) ADMINISTRATION.—(i) The Secretary of the Interior
(referred to in this paragraph as 'the Secretary') shall admin-
ister the trail.

"(ii) The Secretary shall administer those portions of the
trail on non-Federal land only with the consent of the owner
of such land and when such trail portion qualifies for certifi-
cation as an officially established component of the trail, con-
sistent with section 3(a)(3). An owner's approval of a certifi-
cation agreement shall satisfy the consent requirement. A cer-
tification agreement may be terminated at any time.

"(iii) The designation of the trail does not authorize any
person to enter private property without the consent of the
owner.

"(D) CONSULTATION.—The Secretary shall consult with
appropriate State and local agencies in the planning and
development of the trail.

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TPDES PERMIT No WQ0002179000
Letter from Tim & Shalene Fey

PUBLIC LAW 108-342—OCT. 18, 2004

118 STAT. 1371

"(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

"(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land."

Approved October 18, 2004.

LEGISLATIVE HISTORY—S. 2052:

SENATE REPORTS: No. 108-321 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 150 (2004):

Sept. 15, considered and passed Senate.
Sept. 28, considered and passed House.

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FAX Transmission

Number of pages including cover sheet 8Attention: Office of the Chief ClerkCompany: TCEQPhone: 1-512-239-3300Fax: 1-512-239-3311Date: 6/30/2010From: Tim + Sharlene Fey

Company: _____

Phone: 210-414-6597Comments: Comments on Pending Permit
TPDES Permit No. WQ0002179000 - CEMEX

OfficeMax
IMPRESS
IN COPY IN FAX IN PRINT & DOCUMENT SERVICES

8266 Agora Parkway
Selma, Texas 78154
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Email: impress1077@officemax.com

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2010 JUN 30 PM 3:47
CHIEF CLERKS OFFICE

TPDES
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ON ENVIRONMENTAL
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June 30, 2010

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Office of the Chief Clerk, MC105
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

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2010 JUL -1 PM 3:07

BY

EL

CHIEF CLERKS OFFICE

Subject: TPDES Permit No. WQ0002179000; Application for Amendment/Renewal by CEMEX

Office of the Chief Clerk:

Please find enclosed a hard copy of our comments that were submitted by facsimile to you on June 30, 2010. If you need further information, please let us know. Thank you for the opportunity to comment on this important matter.

Sincerely,

Sharlene Fey Tim Fey

Tim & Sharlene Fey
6028 FM 482
New Braunfels, TX 78132
830-609-0126 (hm)
210-414-6597 (cell)
feyfam@att.net

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JUL 02 2010

TEXAS
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2010 JUL -1 PM 3:07

BY *EL*

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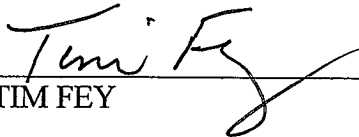
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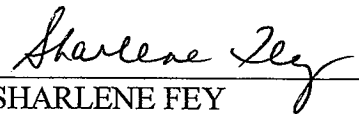
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SHARLENE FEY

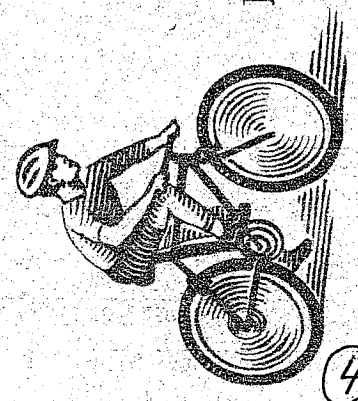
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Attachments

Dry Comal Trail (Hike and Bike Only)

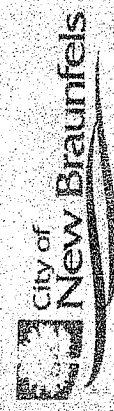
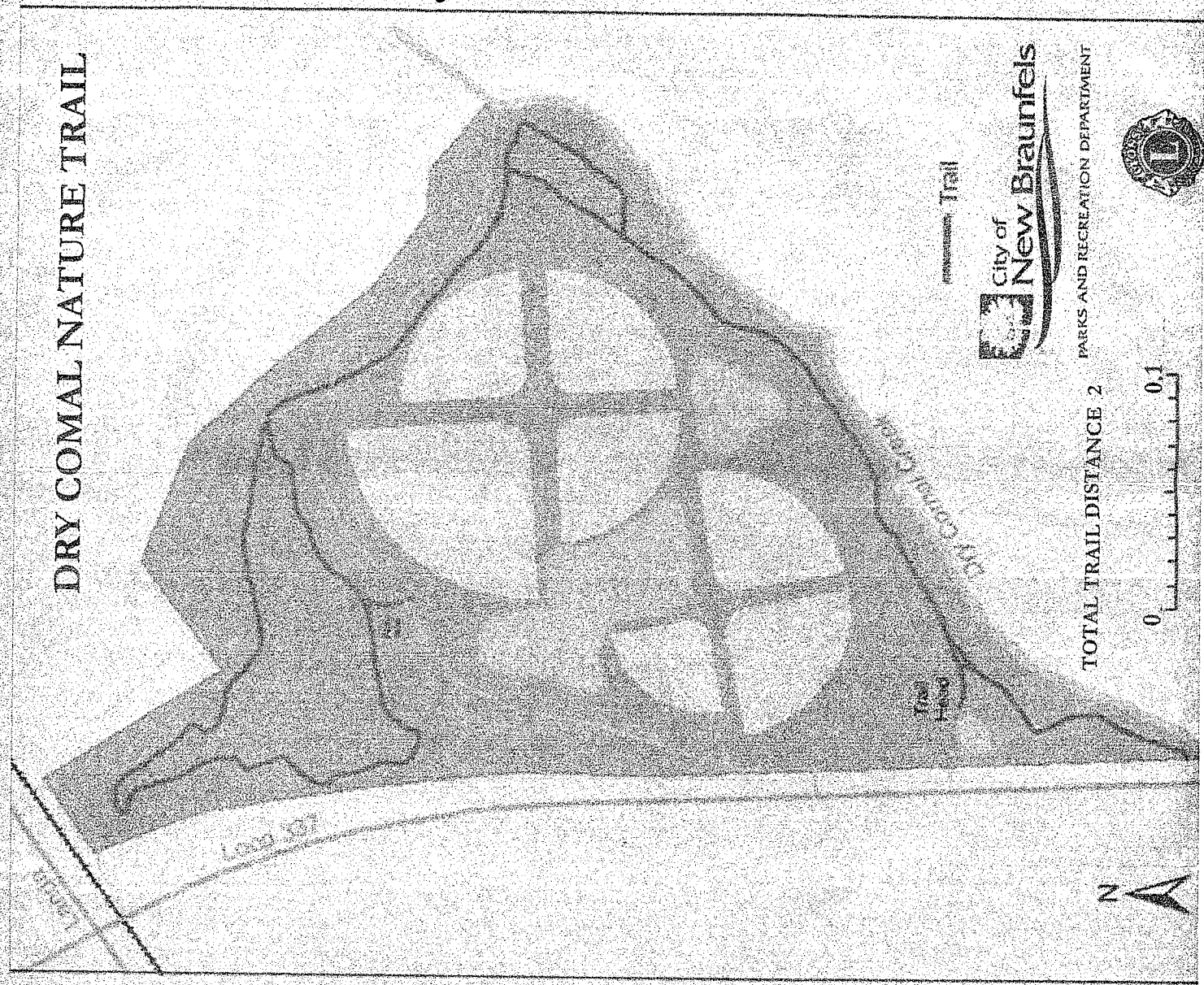
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DRY COMAL NATURE TRAIL



PARKS AND RECREATION DEPARTMENT



RULES OF THE TRAIL

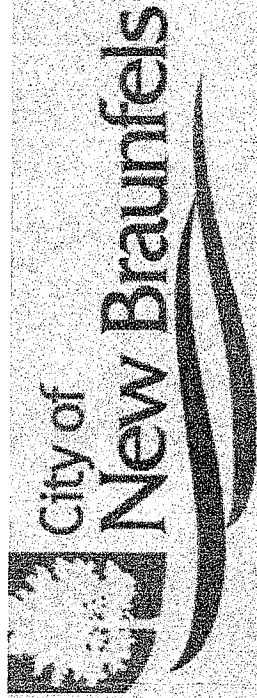
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DRY COMAL NATURE TRAIL GUIDE

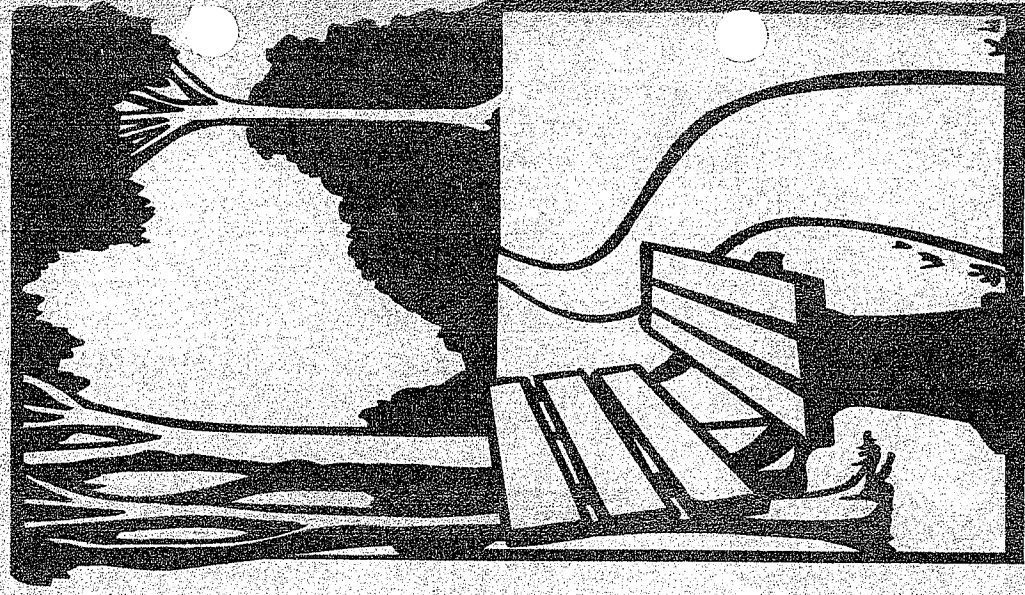
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PARKS AND RECREATION DEPARTMENT

Ltr from Tim Sharkey, TPDES PERMIT NO. W80002179000

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Letter from Tim + Shaleen Fey

118 STAT. 1370

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PUBLIC LAW 108-342—OCT. 18, 2004

118 STAT. 1371

“(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

“(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.”.

Approved October 18, 2004.

LEGISLATIVE HISTORY—S. 2052:

SENATE REPORTS: No. 108-321 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 150 (2004):

Sept. 15, considered and passed Senate.
Sept. 28, considered and passed House.

○

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TPDES Permit No. WQ0002179000 - CEMEX

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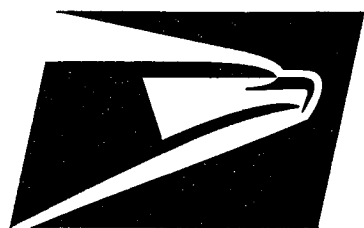
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>>> PUBCOMMENT-OCC 6/28/2010 8:02 AM >>>

>>> <txhager@earthlink.net> 6/27/2010 9:49 PM >>>

REGULATED ENTITY NAME:CEMEX CEMENT OF TEXAS

RN NUMBER:RN102605375

PERMIT NUMBER:WQ0002179000

DOCKET NUMBER:

COUNTY:COMAL

PRINCIPAL NAME:CEMEX CEMENT OF TEXAS LP

CN NUMBER:CN601235385

FROM

NAME:Joseph Hager

E-MAIL:txhager@earthlink.net

COMPANY:Schoenthal Ranch Community Association

ADDRESS:13025 TONNE DR E
NEW BRAUNFELS TX 78132-4561

PHONE:8306063059

FAX:

COMMENTS:On behalf of the Schoenthal Ranch Community Association,I request a public meeting and a contested case hearing concerning this permit application. An increase of suspended solids in the discharge into Dry Comal Creek might well degrade intermediate or high aquatic life uses, and degradation should not be allowed. Owing to the delicate ecosystem, more studies should be done on the Dry Comal Creek, its seed springs, its wetlands, and its surroundings, all of which serve as habitats for wildlife and endangered species. This area is prone to flooding, and the stream reach would be further. More silt and contaminants in the Dry Comal Creek could place the Comal River, Comal Springs, Guadalupe River, the heart of New Braunfels, and rural subdivisions at risk. The other quarries (i.e. Hanson, Martin Marietta, Dean Word, Chemical Lime, L-Hoist) and other industrial operations have activities in and around the Dry Comal Creek watershed as well. What is the impact on the Dry Comal Creek when considering these other operations together with run-off from development along IH 35 and other roadways? The trailhead of the Dry Comal Nature Trail is about 1.5 to 2 miles away from CEMEX. This trail is part of the City of New Braunfels Parks and Recreation Department. This trail features river bottom habitat, wildlife viewing, and unique grasslands. Is the promotion and use of this trail at odds with the nearby industrial operations? Will our local habitat be healthy/safe for wildlife and endangered species, for hikers and bikers, and for county residents, if CEMEX, and other quarry/industrial operations, continue to discharge greater amounts of waste water, silt and contaminants into the Dry Comal Creek (and other area creeks)?

TWD
70874

CM